

AMENDED IN ASSEMBLY MARCH 7, 2016

AMENDED IN SENATE FEBRUARY 12, 2015

SENATE BILL

No. 37

Introduced by Senator ~~Nielsen~~ *Vidak*

(Principal coauthor: Senator Fuller)

(Principal coauthor: ~~coauthors: Assembly Member Gallagher~~ Members
Mathis and Salas)

December 1, 2014

~~An act relating to water, and declaring the urgency thereof, to take effect immediately, to create the Kings River East Groundwater Sustainability Agency, and prescribing its boundaries, organization, operation, management, financing, and other powers and duties, relating to water districts.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, ~~Nielsen~~ *Vidak*. ~~Water: floods. Kings River East Groundwater Sustainability Agency Act.~~

Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources that are designated as basins subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

This bill would create the Kings River East Groundwater Sustainability Agency and would require the agency's initial boundaries

to be established by the boards of supervisors of the Counties of Fresno and Tulare after a noticed public hearing. The bill would require the agency to elect to be a groundwater sustainability agency under the Sustainable Groundwater Management Act for that portion of the Kings Subbasin that lies within the boundaries of the agency and would require the agency to develop and implement a groundwater sustainability plan to achieve sustainable groundwater management within the territory of the agency. The bill would generally specify the powers and purposes of the agency. The bill would prescribe the composition of the 7-member board of directors of the agency and would require members and alternates to be chosen by prescribed member agencies, as specified. By imposing duties on the agency and the member agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(1) Existing law authorizes the Department of Water Resources to administer funding, from various sources, for flood risk reduction projects.~~

~~This bill would authorize the Department of Water Resources to provide reimbursement to funding recipients that execute a funding agreement under the Urban Flood Risk Reduction Projects program for expenditures associated with continued funding of a project initiated under the Early Implementation Project program and incurred after July 1, 2014, and before issuance of a funding commitment, or amendment or execution of the funding agreement, but no later than December 31, 2015.~~

~~(2) This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Kings River East Groundwater Sustainability Agency Act.*

3
4 *Kings River East Groundwater Sustainability Agency Act*
5

6
7 *Article 1. Findings and Declarations*
8

9 101. *The Legislature hereby finds and declares that the*
10 *preservation of the groundwater resources within the territory of*
11 *the agency for agricultural, municipal, and industrial uses is in*
12 *the public interest and that the creation of the agency pursuant to*
13 *this act is for the common benefit of water users.*

14 102. *The Legislature further finds and declares that the*
15 *groundwater management activities of the agency benefit all*
16 *operators of groundwater extraction facilities within the territory*
17 *of the agency.*

18 103. *The Legislature further finds and declares that*
19 *circumstances in the territory of the agency to be formed hereby,*
20 *which may not exist in other locations, justify the formation of the*
21 *agency and the grant of powers contained in this act.*
22

23 *Article 2. Creation and Purposes*
24

25 201. (a) *A groundwater management agency is hereby created*
26 *in the Counties of Fresno and Tulare to be known as the Kings*
27 *River East Groundwater Sustainability Agency.*

28 (b) *The agency shall be governed by a board as specified in*
29 *Section 501 and shall have the boundaries specified in Section*
30 *301. The agency shall exercise the powers granted by this act and*
31 *the Sustainable Groundwater Management Act (Part 2.74*
32 *(commencing with Section 10720) of Division 6 of the Water Code)*
33 *for purposes of groundwater management within the boundaries*
34 *of the agency, together with any other powers as are reasonably*
35 *implied, necessary, and proper to carry out the objectives and*
36 *purposes of the agency to implement the Sustainable Groundwater*
37 *Management Act.*

Article 3. *Boundaries*

301. *For purposes of this act, the initial boundaries of the agency shall include the following:*

(a) *All land located within the exterior perimeter boundaries of Alta Irrigation District that is within the Counties of Fresno and Tulare.*

(b) *All land located in the incorporated City of Reedley.*

(c) *All land located in Kings River Water District plus parcel 350-150-16 within the County of Fresno, as that parcel existed as of January 1, 2016, and excluding the incorporated City of Sanger.*

(d) *Land that is east of Alta Irrigation District and east of the east line of Sections 13 and 24, T13S, R23E, between Alta Irrigation District and east line and the east line of the Bulletin 118 Kings Subbasin boundary, as described in the report by the Department of Water Resources titled, "California's Groundwater: Bulletin 118," updated in 2003, as it may be subsequently updated or revised in accordance with Section 12924 of the Water Code.*

302. *The agency's initial boundaries shall be established by the boards of supervisors of the Counties of Fresno and Tulare after a noticed public hearing. The boundaries shall be depicted on a map that shall be adopted by the boards of supervisors of those counties and thereafter recorded in the office of the county recorder of each county.*

303. *The boards of supervisors of the Counties of Fresno and Tulare may adjust the boundaries of the agency in the same manner prescribed for establishment of the initial boundaries if the boundaries of the basin are revised, including the establishment of new subbasins.*

Article 4. *Definitions*

401. *Unless otherwise indicated by their context, the definitions set forth in this article govern the interpretation of this act.*

401.1. *"Actively and primarily engaged in production of agriculture" means that a person derives at least 75 percent of his or her annual income from production agriculture.*

402. *"Agency" means the Kings River East Groundwater Sustainability Agency established by this act.*

1 403. *“Alta” means the Alta Irrigation District.*

2 404. *“Aquifer” means a geologic formation or structure that*
3 *transmits water in sufficient quantities to supply pumping wells*
4 *or springs.*

5 405. *“Basin” has the same meaning as defined in Section*
6 *10721 of the Water Code.*

7 406. *“Board” means the board of directors of the agency, as*
8 *more particularly described in Section 501.*

9 407. *“Cities” means the Cities of Dinuba, Orange Cove, and*
10 *Reedley.*

11 408. *“Coordination agreement” has the same meaning as*
12 *defined in Section 10721 of the Water Code.*

13 409. *“County” means either the County of Fresno or the*
14 *County of Tulare, as the context requires. “Counties” means the*
15 *County of Fresno and the County of Tulare.*

16 410. *“Extraction” means the act of obtaining groundwater by*
17 *pumping or other controlled means.*

18 411. *“Groundwater” has the same meaning as defined in*
19 *Section 10721 of the Water Code.*

20 412. *“Groundwater management activities” means programs,*
21 *measures, or actions taken to preserve, protect, and enhance*
22 *groundwater resources within the territory of the agency.*

23 413. *“Kings Subbasin” means the San Joaquin Valley Basin*
24 *Kings Subbasin.*

25 414. *“Member agency” means Alta, the counties, the cities,*
26 *and the special districts entitled to representation on the agency’s*
27 *board of directors as specified in Section 501.*

28 415. *“Operator” has the same meaning as defined in Section*
29 *10721 of the Water Code.*

30 416. *“Person” includes any state or local governmental*
31 *agency, private corporation, firm, partnership, limited liability*
32 *company, individual, group of individuals, or, to the extent*
33 *authorized by law, any federal agency.*

34 417. *“Plan” means a groundwater sustainability plan prepared*
35 *by the agency pursuant to this act.*

36 418. *“Supplemental water” means surface water or*
37 *groundwater imported from outside the watershed or watersheds*
38 *of the basin or aquifer and floodwaters that are conserved and*
39 *saved within the watershed or watersheds that would otherwise*
40 *have been lost or would not have reached the basin or aquifer.*

Article 5. General Provisions

501. (a) *The agency shall be governed by a board of directors that shall consist of seven members, as follows:*

(1) *One member shall be chosen by Alta.*

(2) *One member shall be chosen by the County of Fresno.*

(3) *One member shall be chosen by the County of Tulare.*

(4) *One member shall be chosen by the cities. This member shall be chosen from the members of the city councils of the cities whose territory, at least in part, overlies the territory of the agency. This member shall be chosen at a public meeting where each city is represented by its mayor.*

(5) *One member shall be chosen from the members of the governing boards of the following special districts that are not governed by the board of supervisors of either county, are engaged in water activities, and whose territory, at least in part, overlies the territory of the agency:*

(A) *Hills Valley Irrigation District.*

(B) *Orange Cove Irrigation District.*

(C) *Tri-Valley Water District.*

(D) *Kings River Water District.*

(6) *One member shall be chosen from the members of the governing boards of special districts that provide drinking water within the territory of the agency.*

(7) *One member shall be chosen by the other six board members to represent agricultural interests within the territory of the agency. This member shall reside and be actively and primarily engaged in production of agriculture within the territory of the agency. This member shall be selected from a list of at least five nominations submitted from the Fresno County Farm Bureau and the Tulare County Farm Bureau, acting jointly, but the five nominees need not be members of either organization.*

(b) *The board members described in paragraphs (1), (2), and (3) of subdivision (a) shall be chosen by their respective governing boards from their board members whose districts or divisions overlie, at least in part, the territory of the agency.*

(c) *The board members described in paragraphs (5) and (6) of subdivision (a) shall be chosen at a public meeting where each*

1 *special district is represented by the president or chair of its*
2 *governing board.*

3 *(d) There shall be an alternate for each board member, chosen*
4 *in the same manner and by the same entity as the board member.*
5 *The alternate member shall act in place of the board member he*
6 *or she is an alternate for in case of that board member's absence*
7 *or inability to act.*

8 502. *(a) The members described in paragraphs (1) to (6),*
9 *inclusive, of subdivision (a) of Section 501 shall serve for a*
10 *four-year term of office, or until the member is no longer an*
11 *eligible official of the member agency. These members may serve*
12 *for more than one term of office.*

13 *(b) The member described in paragraph (7) of subdivision (a)*
14 *of Section 501 shall serve a four-year term of office.*

15 503. *(a) The board may adopt an ordinance to provide*
16 *compensation to members of the board in an amount not to exceed*
17 *one hundred dollars (\$100) per day for each day's attendance at*
18 *meetings of the board or for each day's service rendered as a*
19 *member of the board by request of the board. For purposes of this*
20 *section, the determination of whether a board member's activities*
21 *on any specific day are compensable shall be made pursuant to*
22 *Article 2.3 (commencing with Section 53232) of Chapter 2 of Part*
23 *1 of Division 2 of Title 5 of the Government Code.*

24 *(b) Reimbursement for expenses of members of the board is*
25 *subject to Sections 53232.2 and 53232.3 of the Government Code.*

26 *(c) The board may adopt an ordinance to increase the*
27 *compensation received by members of the board above the amount*
28 *of one hundred dollars (\$100) per day. The increase shall not*
29 *exceed an amount equal to 5 percent, for each calendar year*
30 *following the operative date of the last adjustment, of the*
31 *compensation that is received when the ordinance is adopted.*

32 *(d) A board member shall not be compensated for more than a*
33 *total of 10 days in any calendar month.*

34 504. *(a) The board may adopt ordinances for the purpose of*
35 *regulating, conserving, managing, and controlling the use and*
36 *extraction of groundwater within the territory of the agency.*

37 *(b) An ordinance adopted by the board shall become effective*
38 *30 days from the date of its passage.*

39 *(c) All ordinances shall be adopted at noticed, public hearings*
40 *by a majority vote of the board. No ordinance shall be adopted by*

1 *the board except at a public hearing. Notice of the hearing shall*
2 *be published in a newspaper of general circulation pursuant to*
3 *Section 6066 of the Government Code.*

4 *(d) The board shall provide notice of the adoption of all*
5 *ordinances.*

6 *505. No provision of this act shall be construed as denying to*
7 *the counties, any city, Alta, or any other member agency any rights*
8 *or powers that they already have or that they may be granted.*

9 *506. The agency may contract with either county or Alta for*
10 *staff and other services. The agency may hire contractors and*
11 *consultants as it considers appropriate.*

12 *507. The agency may enter into a coordination agreement with*
13 *other local agencies for purposes of coordinating the agency's*
14 *plan with other agencies or groundwater sustainability plans within*
15 *the Kings Subbasin as required by the Sustainable Groundwater*
16 *Management Act (Part 2.74 (commencing with Section 10720) of*
17 *Division 6 of the Water Code).*

18 *508. The agency may exclude from any of the requirements of*
19 *this act, or the operation of any ordinance, any operator who*
20 *annually extracts less than a minimum amount of groundwater as*
21 *specified by an ordinance adopted by the board.*

22 23 *Article 6. Studies and Investigations* 24

25 *601. The agency may collect data and conduct technical and*
26 *other investigations of all kinds in order to carry out the provisions*
27 *of this act. All hydrological investigations and studies carried out*
28 *by or on behalf of the agency shall be constructed by or under the*
29 *supervision of licensed engineers or other persons qualified in*
30 *groundwater geology or hydrology.*

31 *602. The agency may recommend and encourage water*
32 *recycling and other water development projects, where those*
33 *projects will enhance and contribute to the responsible*
34 *management of groundwater resources, as part of its annual plan*
35 *for implementation of groundwater management objectives.*

36 37 *Article 7. Sustainable Groundwater Management Powers* 38

39 *701. The agency shall develop and implement a groundwater*
40 *sustainability plan pursuant to Chapter 6 (commencing with*

1 *Section 10727) of Part 2.74 of Division 6 of the Water Code to*
2 *achieve sustainable groundwater management within the territory*
3 *of the agency.*

4 *702. The agency shall elect to be a groundwater sustainability*
5 *agency pursuant to Chapter 4 (commencing with Section 10723)*
6 *of Part 2.74 of Division 6 of the Water Code for that portion of*
7 *the Kings Subbasin that lies within the boundaries of the agency.*

8 *703. The agency may exercise any of the powers described in*
9 *Chapter 5 (commencing with Section 10725) of Part 2.74 of*
10 *Division 6 of the Water Code and the enforcement powers*
11 *described in Chapter 9 (commencing with Section 10732) of Part*
12 *2.74 of Division 6 of the Water Code.*

13 *704. The availability of supplemental water to any operator*
14 *shall not subject that operator to regulations that are more*
15 *restrictive than those imposed on other operators.*

16
17 *Article 8. Fee Authority*
18

19 *801. Pursuant to Chapter 8 (commencing with Section 10730)*
20 *of Part 2.74 of Division 6 of the Water Code, the agency may*
21 *impose fees, including, but not limited to, permit fees and fees on*
22 *groundwater extraction or other regulated activity, to fund the*
23 *costs of a groundwater sustainability program, that include, but*
24 *are not limited to, the preparation, adoption, and amendment of*
25 *a groundwater sustainability plan, investigations, inspections,*
26 *compliance assistance, enforcement, and program administration,*
27 *including a prudent reserve.*

28 *SEC. 2. If the Commission on State Mandates determines that*
29 *this act contains costs mandated by the state, reimbursement to*
30 *local agencies and school districts for those costs shall be made*
31 *pursuant to Part 7 (commencing with Section 17500) of Division*
32 *4 of Title 2 of the Government Code.*

33 ~~*SECTION 1. Notwithstanding any other law, the Department*~~
34 ~~*of Water Resources may provide reimbursement to funding*~~
35 ~~*recipients that execute a funding agreement under the Urban Flood*~~
36 ~~*Risk Reduction Projects program for any expenditure associated*~~
37 ~~*with continued funding of a project initiated under the Early*~~
38 ~~*Implementation Project program and incurred after July 1, 2014,*~~
39 ~~*and before issuance of a funding commitment letter, or amendment*~~

1 or execution of the funding agreement, but no later than December
2 31, 2015.

3 ~~SEC. 2. This act is an urgency statute necessary for the~~
4 ~~immediate preservation of the public peace, health, or safety within~~
5 ~~the meaning of Article IV of the Constitution and shall go into~~
6 ~~immediate effect. The facts constituting the necessity are:~~

7 ~~In order to provide for early reimbursement for funding recipients~~
8 ~~to expedite urban flood risk reduction projects, it is necessary that~~
9 ~~the bill take effect immediately.~~